

REMARKS/ARGUMENTS

Claims 1-48 are pending in the present application. In the Office Action mailed October 19, 2006, the Examiner rejected claims 1-48 under 35 U.S.C. § 102. Claims 1, 12, 27, 34, and 41 (all of the independent claims) of this application had been amended.

Reconsideration is respectfully requested in view of the above amendments to the claims and the following remarks.

I. Claims 1-48 Rejected Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1-48 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2004/0209595 to Bikanich (hereinafter, "Bikanich"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the amended claims are patentably distinct from Bikanich. Bikanich does not disclose all of the limitations in these claims.

The claims now each require that the calling plan rules are transmitted from a server or other computing device in response to selection of an icon or other identifier representing the calling plan rules. Bikanich fails to teach or suggest this limitation.

Bikanich teaches a series of ancillary devices for attachment to or insertion into a cell phone to track cellular telephone charges. (*See, e.g.*, Bikanich at Figure 2 and Figure 6B.) Bikanich also teaches a burdensome system in which a user inputs a complex set of parameters to define how cell

phone charges will be assessed. Based on these parameters, a program is generated, downloaded, and installed to override the current settings of the phone. The disclosed system is incredibly burdensome and discusses having the consumer input of vast array of complex and potentially difficult to obtain information. Bekanich states:

As illustrated in FIG. 18, the customer may be asked to enter the billing period 1801, including the day of the month in which a new period starts; the number of peak minutes 1802 available under the billing plan; the number of off peak minutes available 1803; and the number of mobile to mobile minutes 1804. The customer may also be asked to define peak minutes 1805 by identifying the start time 1806 and end time 1807 of the peak minutes period. Likewise, the customer may be asked to define off peak minutes 1808 by identifying the start time 1809 and end time 1810 of the off peak minutes. The customer may set the type of alert desired 1811 and one or more threshold(s) 1812 of remaining minutes when an alert should be made. The customer may also define their service provider's call initiation charge 1813, if any, and identify the amount of the charge 1814. Carrier initiation charges may include various specific charges from the carrier such as: billing from the time a call connects with the carrier's network; billing for the first minute of the ringing time regardless if a call is answered; billing for the first minute if the call rings for 30 seconds; and billing for the first minute from the first ring. The customer may also specify if rollover minutes 1815 are available under their billing plan by selecting YES 1816 or NO 1817.

(Bekanich at ¶ 0100.) A consumer would obviously be annoyed to be required to input so much information and any product that requires this burdensome procedure is not likely to be used by consumers.

The system of the present Application is far more simple and far more likely to be accepted and used by consumers. In response to selecting an icon or other identifier, without the burden of inputting all the calling plan parameters, the user receives the calling plan rules. (Application, p. 8, lines 16-22.) These rules may then be used by the phone to accurately determine cell phone charges and remaining cell phone minutes, etc.

In view of the foregoing, Applicants respectfully submit that claims 1, 12, 27, 34, and 41 are patentably distinct from Bekanich. Accordingly, Applicants respectfully request that the rejection of claims 1, 12, 27, 34, and 41 be withdrawn.

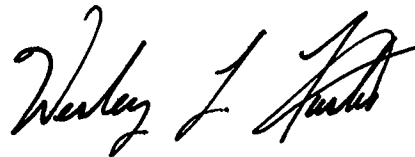
Appl. No. 10/676,975
Amdt. dated January 18, 2007
Reply to Office Action of October 19, 2006

The remaining claims depend either directly or indirectly from claims 1, 12, 27, 34, and 41. Accordingly, Applicants respectfully request that the rejection of claims 1-48 be withdrawn for at least the same reasons as those presented above.

II. Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wesley L. Austin". The signature is fluid and cursive, with the first name "Wesley" being the most prominent.

/Wesley L. Austin/

Wesley L. Austin
Reg. No. 42,273
Attorney for Applicant

Date: January 18, 2007

MADSON & AUSTIN
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, Utah 84101
Telephone: (801) 537-1700